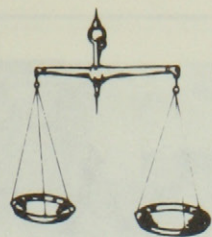


Quid Novi



VOL. II NO. 19

MCGILL UNIVERSITY FACULTY OF LAW

February 11, 1982

Get serious, Godin tells media

BY DANIEL CHONCHOL

This province's news media are guilty of distorting the facts and overemphasizing the trivial, says Québec's Minister for Immigration and Cultural Communities, Gerald Godin.

The Minister, a former journalist, made his views known in a speech entitled "Media Bias Against the PQ" which he delivered in the Moot Court last Thursday.

Godin focussed primarily on the print media and, not surprisingly, reserved most of his scorn for the Gazette.

The Minister cited several examples of what he sees as the paper's lack of fairness in covering his government.

The most striking of these was the Gazette's treatment of his role in the recent furor over the unavailability of driver's license renewal forms in English.

Godin claimed that on being made aware of the situation by a constituent, he immediately contacted Transport Minister Michel Clair and urged him to act on the matter. The Transport Ministry did indeed make English forms available soon after and put out a communiqué to bring this to the public's attention.

In the interim, a Gazette reporter contacted the Minister and asked him what he intended to do about the problem. Godin informed the reporter about his discussion with Clair. However, not only did the news of that discussion not make

the paper, but the Gazette came out with an editorial a few days later criticizing Godin for his inaction. Incidents like these, said the Minister, "lead one to believe that the English papers are merely political operations which exist to blast the government and don't give a damn about the facts."

The Minister pointed out that the French papers also often "put oil on the fire" and are certainly not beyond reproach, though they generally offer a more balanced perspective. He is distressed by what he sees as a general policy on the part of the province's newspapers of attempting "to incite and inflame" their readership.

Godin also bemoaned the amount of newspaper space that is given over to "fluff".



Gerald Godin thinks all the province's newspapers are unfair and pre-occupied with trivia. Obviously he doesn't read Quid Novi.

"There's always time to cover the crowning of The Queen of the Lettuce and no time to cover pollution," he commented.
(Continued page 3)

Women's hockey team wins big

BY DEMETRIOS XISTRIS

Some 30 McGill students participated in the Law School Sports Tournament this past weekend at Queen's University in Kingston. McGill entered teams in men's and women's hockey, squash, basketball, and coed volleyball.

The women's hockey team was the big story from the 4 day event. They managed to capture the gold for the third consecutive year with a 4-2 victory over Western. Sparked

by the scintillating goaltending of Kathy Fisher and the offensive punch of Lynne Blenkhorne and Vonnice Eng, the squad was in complete control of the game. Throughout the whole tourney the women's team had only two substitutes while other teams had 2 extra lines yet they still dominated the opposition with wins like 8-0 and 9-2. In the end it was their fine effort which resulted in McGill's only first place finish. Special consideration goes to coach Glen Casborne
(Continued page 12)

Credits for BSA – round 3

BY LESLEY CAMERON

According to the 1981-1982 calendar, the Faculty of Law offers the following course: Board of Student Advisers. 496-015A Two Directors - 3 credits. 496-016A Max. of 13 - 2 credits.

N.B. Senate authorization pending at time of publication.

Last week, the Student Advisers had their last formal meeting with their first year tutorial groups. And this week, Faculty Council votes on yet another proposal to gain Senate's approval to give Student Advisers academic credit for their work. In other words, Senate authorization is still pending. And the students are the losers.

Conceived in 1978-79, the student-run tutorial program was the Curriculum Committee's response to student dissatisfaction with the existing tutorial program which consisted of 3 written assignments. The new program, instituted in 1979-1980, did not require approval by Senate as a new course; first year students took Tutorials I as before and their Student Advisers came under the Group Assistants program. Senate approval first became necessary in 1980-81 when the BSA sought academic credit for its participants.

ROUND ONE - BAD TIMING

To everyone's surprise, the Academic Policy Committee (APC) of Senate returned the Faculty's proposal for a new "Board of Student Advisers" course. Their objections were fourfold:

1) Although the Faculty alleges legal research and legal writing skills to be central to its program, this is done in one course;

2) This supposedly crucial skill is left in the hands of students and not Faculty;

3) It is against the principle at McGill (sic) that students get credit for teaching other McGill students;

4) There is no assurance that the learning of these students is appropriately structured and/or evaluated."

this was in mid-May 1981 and there was no time for the proposal to be reformulated, resubmitted and approved for the September curriculum. In August, the present BSA agreed to participate in the Tutorial program as "resource persons" without credit.

There is suspicion, confirmed in part by a memo from the Vice-Principal E. Pedersen to the Dean (May 26, 1981) that the BSA proposal was the victim of a squeeze out by the Academic Policy Committee of Senate, that it was a question of timing as much as merit. Senate had just approved the allocation of credits for the extra-curricular moots. APC was making noises about not having sufficient time to consider the new B.C.L. and L.L.B. curriculum and degree requirements for the 1981-1982 year. And Vice-Principal Pedersen intimated that APC might be more reluctant to pass the revised degree requirements (obviously a priority for the Faculty) at their June 18 meeting in view of their concerns about the BSA proposal.

On September 17, 1981, Faculty Council resolved to resubmit essentially the same proposal but to include in the package a letter from Campbell Stuart (LUS Pres.) published in Quid Novi and a memorandum from BSA responding to APC's objections. The memo emphasized that basic legal research and writing skills are necessary for the effective study of law. The authors observed that Student Advisers should be compared with graduate student T.A.'s in other Faculties. They outlined why credits are necessary to allow Advisers the time to prepare and correct the assignments properly and made comparisons with similar programs at other law schools.

ROUND TWO - TEACHING TEACHERS

On January 12, 1982., the Dean presented the proposal to a subcommittee of the new Academic Planning and Policy Committee, in accordance with new administrative regulations. Much to their disgust, two representatives from the BSA and LUS were barred from the subcommittee meeting, although the former Committee meetings had been open session.

The Dean reported to the Faculty's Curriculum Committee that the subcommittee was enthused about the idea of students learning by teaching. He was assured by the subcommittee that the proposal would get Senate approval if certain adjustments were made:

1) that no student receive more than 2 credits

2) that the students be required in fact to perform more actual writing within the program

3) that the evaluation of the Advisers be more "structured".

ROUND THREE - A COMPROMISE

A sub-committee of the Curriculum Committee completed another Draft Proposal for the BSA course on January 20. According to the Draft drawn up by Ann Soden, Susan Zimmerman, Campbell Stuart and Prof. Baker, the Student Adviser will assume primary responsibility for teaching his tutorial group. He/she will also draft and correct written assignments. Neither will the roles of the Faculty Adviser nor of the Faculty Supervisor be diminished. All parties have more work and none is particularly happy except hopefully the AP&PC. The Curriculum Committee has handed the proposal on to Faculty Council without a vote but with recommendations to simplify the role of Faculty members and to tighten selection requirements for prospective Student Advisers.

The net result of this intrigue of proposals may be that, in attempting to satisfy AP&PC, the BSA course will become a point of tension between students and staff in this Faculty. Perhaps not enough students will be prepared to commit so much time for 2 credits. Perhaps Faculty members will also shrink from the additional workload -- a sorry prospect for a program initially conceived as a constructive and co-operative effort between students and staff. Nonetheless, it is hoped that Faculty Council, AP&PC and the Senate will all approve the proposal and that the BSA will be for keeps -- and for credits.

(Many thanks to Campbell Stuart for his assistance with this article.)

General asserts need for tougher defense policy

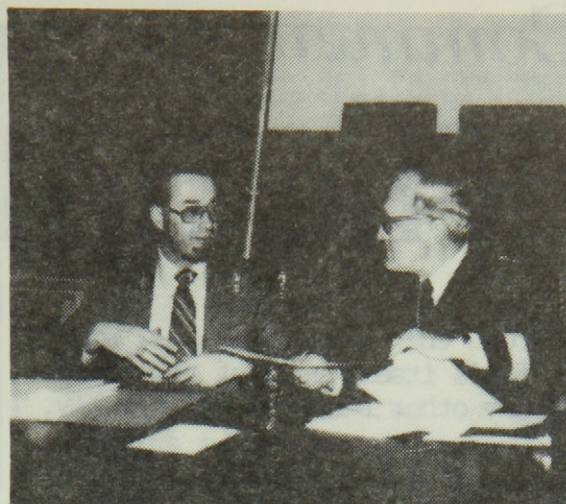
BY RICHARD JANDA

Last Wednesday, the McGill International Law Society held its first of two panels on "International Conflict". Entitled "Canada's Contribution to Western Security and International Peacekeeping Efforts", the panel included Brigadier General C.E. Beattie, Director of General Policy planning for the Department of National Defense, Mr. Simon Wade, Assistant Director of the Defence Relations Division, External Affairs, and Mr. Murray Thompson, the Director of Planning for Project Ploughshares, a disarmament group.

The discussion centred around an attack on Canada's defense policy by Mr. Thompson and the counters of the Brigadier General and Mr. Wade.

With the advent of nuclear weapons, Beattie argued, "Canada's immunity ended" after years of geographic insulation. The seventies produced an "overly optimistic" analysis of the possibility of evolved peace. "The glowing prospects for détente have not materialized", Beattie asserted, and in the face of an Energy Crisis and increased "Soviet initiatives", a more conservative policy of "security" had to be mapped out for Canada in its role as part of the North Atlantic alliance.

Indeed, "security" was a refrain throughout Mr. Wade's address, and he concluded: "Security is the key. Without defense, there is no security, and without security there can be no peace." For too long the West had failed to meet increasing arms buildups in the East. This in turn weakened the West's bargaining position in arms talks and contributed to "de-stabilization". The short term answer, according to Mr. Wade, lies in strengthening Western defenses. "Only a show of strength brought the Soviets to the bargaining table recently."

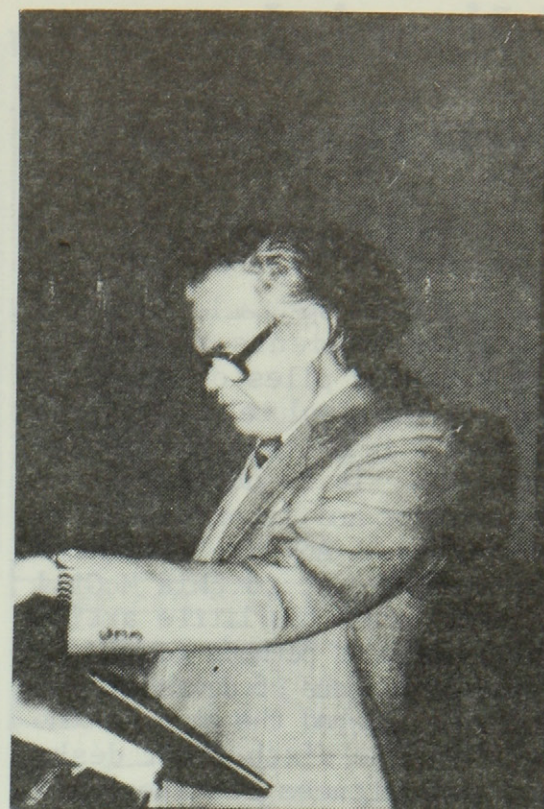


Mr. Thompson, on the other hand, questioned the received wisdom that the West was now simply responding to a decade of covert Soviet arms buildups. He cited statistics suggesting that while the Soviets have had major increases in some sectors of their military budget, the Americans have been keeping pace with developments in different sectors. He argued that one could not point the finger at one side or the other for initiating arms increases. Indeed, Thompson noted, the Americans, if one has to call names, have been responsible for the vast majority of technological innovations and concurrent spending splurges.

Against the backdrop of world poverty and rising danger, Thompson urged that present Western and Canadian policies were leading to "absolute insecurity".

Thompson questioned the unwillingness of the Canadian defense establishment to look at any alternatives to the present defense policy. When he asked Mr. Wade about Prime Minister Trudeau's much famed "suffocation" proposal for disarmament, which would involve gradually cutting off the means to produce nuclear weapons by a series of test bans etc., Wade expressed ignorance of the content of this policy "alternative".

Questions from the audience centred largely on the wisdom of a more "hawkish" position for Canada and the West in general at this time. Brigadier General Beattie, a longtime officer in Canada's peacekeeping forces remarked at one point: "I don't want to come out in favour of war. I've been shot at enough in 'peace'. There was there at any rate, a consensus that a minimum of shooting was desirable, especially of the inter-continental variety."



(Left) Simon Wade of External Affairs and Brigadier General C.E. Beattie of National Defense. Does the left hand know what the right hand is doing? (Above) Murray Thompson, Project Ploughshares, suggests we cut one F-18 fighter and use the money for peace research.

(Continued from page 1)

The Minister's solution to the problem would be to give journalists more control over the newspapers. "Otherwise, all you'll get is trivia."

Godin's assessment of press coverage of Bill 101 (he says that it has improved but that there is still a tendency to accentuate the negative) led him into a digression on the state of English-French relations in Quebec.

According to the Minister, "Each side must make an effort to understand the other's logic" for our current difficulties to be resolved.

Though the Minister did have harsh words for the media, he was, in the end, optimistic about the future of journalism in Quebec. "I am confident that the public's need for indepth information will win out," he declared.

(Author's note: perhaps some mention should be made of Luc Drouin's efforts in getting the Minister to come and speak here.)

Editorial

No hoarding
please

The Moot Week spectacle presented by frantic students rummaging through random piles of books in search of the absolutely essential case report is unpleasant and inconvenient. It is unpleasant to the spectator and inconvenient to everyone else. And the "Theatre of the Absurd" aspect to this McGill Law School drama has little artistic merit expect perhaps in vividly portraying a scene of devastation. Anyone who has had the good fortune to survey the sixth floor desks lately may witness architectural wonders built thereon such as rival the greatest Lego or Tinkertoy works of not too distant childhood.

A reader writes in this week comparing the present situation in the McGill library during moots with that at the University of Ottawa Law School. One thing is obvious. To have the library in shambles is not part of some fixed, universal order of things. Students elsewhere are capable of meeting the impending doom of moots without contracting a chronic form libris grabbemallis.

A simple, unpretentious, unself-righteous, suggestion is offered. Books might, maybe, be returned to their place of residence once they have been consulted and photocopied from. The bare minimum (ie, two -- one for partner, one for me) might be kept around to be worked from. Possible result? Eternal happiness and salvation. Likely result? A library that is usable -- even by those not participating in moots.

Quid Novi, avid readers will note, is having an essay contest (as announced last week) the topic of which is "What makes a Law School Great?" During the walkout last term, Mr. Renshaw suggested that the heart of a great law school is a great library. It is further suggested that the heart of a great library is books on the shelves.

RICHARD JANDA

Comment

The politics of

While Ronald Reagan tries to bankrupt the Federal Reserve, America finds itself void of resources in many other sectors. Politically, the Democratic Party is a barren wasteland of unimaginative liberal ideas while the Republican Party rode itself to power not by proclaiming any new insights but by portraying the negative aspects of the Carter administration. Economically, the lustre that was once American technology has turned the U.S. into a service sector as opposed to a productive oriented economy. And lest we forget the Moral Majority, who keeps reminding Americans that they are morally bankrupt.

Bankruptcy in any form or state is dangerous. It requires a resort to rhetoric to deny its existence. Witness the Reagan administration. They have used hard-headed speeches to camouflage their inadequacy. They claim that the burden of turning America around is on the shoulders of the citizenry and not the government. And when this starts to cool down they redirect your attention with fairy tales of unwanted immigrants from Quaddafi's quarry. The longer the administration played cat and mouse to reveal any proof with this issue, the less plausible the whole scheme became.

All this added to Reagan's anti-Soviet stance, his demand for polygraph tests on government employees, his futile attempt to absolve himself of any error, moral

or legal, in the White House directive for tax exempted segregated schools, his defence of his policies and players as correct on the grounds that any dissent is seditious (i.e. Reagan's Divine Right thesis), all stem from the paranoia and fear of the White House. Reagan has steamrolled policies through an uninformed Congress with the use of his rhetoric. He has effectively played the role that he has played all his life -- that of an actor. Richard Neustadt wrote that the power of the Presidency is the power to persuade. In this respect, Ronald Reagan has been a fast talker.

So why does the President call his critics "mindless dinosaurs"? Why does he wish to curtail debate on the issues? Why the swift action in the Congress before the merits could be discussed? Simplistically answered it is because of paranoia. But the President's philosophy is wrong. The American republic is deep-rooted in the notion of free speech, of competing claims, and the notion that debate in the public arena will reveal the truths, the half-truths, and the falsities of each issue. The President is fearful that if his positions were opened to those starved liberals in the press then his policies would be deflated. In essence the President apparently believes that since he controls all the facts he is right and others are wrong. This creates "mindless dinosaurs", traitors among the citizenry where before there were

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Contributors: Cathy Gallant, Anne Cournoyer, Neil Cobb, Daniel Chonchol, Stephan LeGouëff, Richard Kurland, Jerry Bartlett.

rhetoric

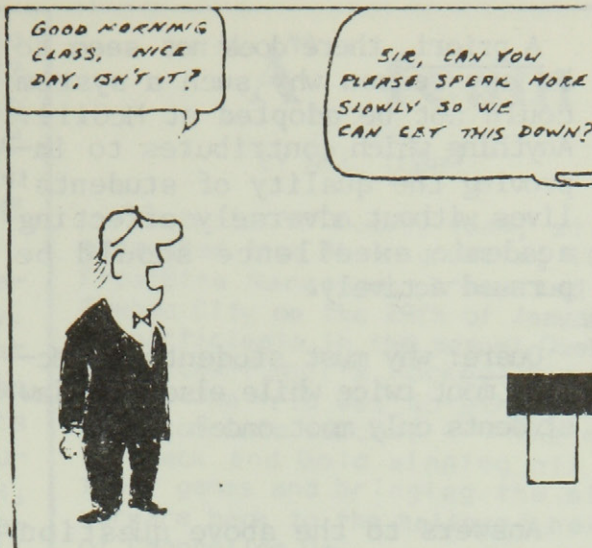
none, and, as a development of this battle seige mentality, a perversion of the truth, justice and reality.

The administration has dug the trenches: free-world v. communism; establishment v. left-wing (read here hawks v. reds); white v. black; all with the effect of polarizing American society. The best way to destroy your opposition, the thinking goes in Washington, is by isolating them and putting them on the defensive. Though this may work, in the end it remains counter-productive.

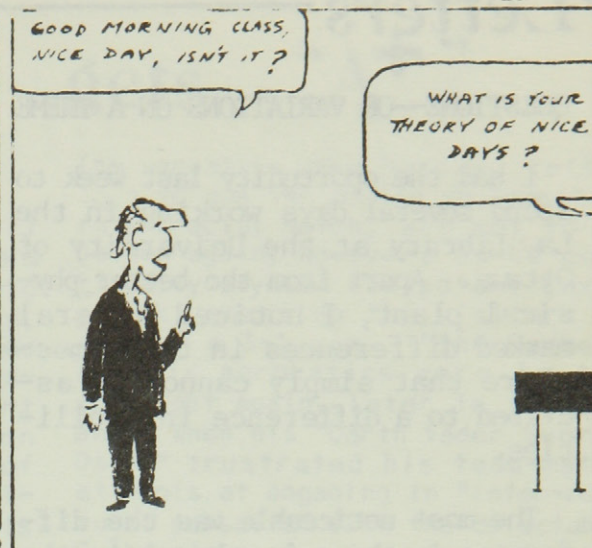
What we see in Washington is a very superficially thought out policy towards solving problems. There is no basis for a foreign policy (see Al Haig, the only general in the U.S. who never saw a battlefield and who could not say what the U.S. position would be if the Soviets compromised on Poland and nuclear weapons), no realistic idea in terms of requirements, expectations, and results of what George Bush called "voodoo economics" (see also David Stockman in December Atlantic), and this continues in many areas on both the domestic and foreign front. The danger in playing politics blindly is that in the end more permanent damage than temporary good is accomplished. Take for example, the new tax credit sales from company to company. Multinationals like ATT are said to have sheltered their profits for the next five years. The repercussions on the Federal Reserve may yet be grave.

Though it is slowing down, it is clear that the momentum of Ronald Reagan's first 365 days was indeed due to his political rhetoric and his ability to polarize groups, which were unprepared to defend themselves, and he was thus able to mobilize popular middle and upper class support to push his shallow policies through Congress.

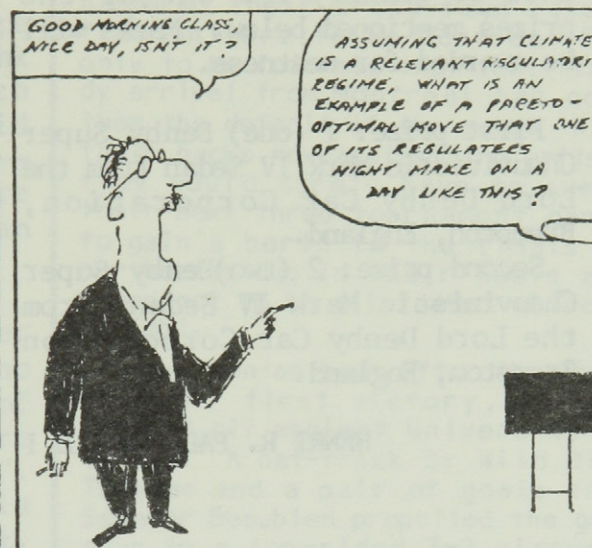
DEMETRIOS G. XISTRIS



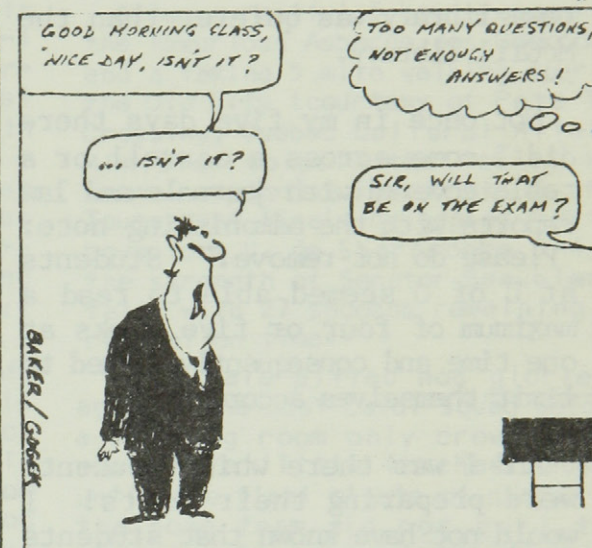
[U. OF T. LAW SCHOOL]



[YALE LAW SCHOOL]



[CHICAGO LAW SCHOOL]



[MCGILL LAW SCHOOL]

Bora's back

Dear Bora:

I am a distraught third year student who is anticipating being "dumped" by my boyfriend, also an upperclassman. He told me he loved me and promised to marry me, but now has fallen for a "sweet" first year student.

Please advise me on my avenues of legal recourse.

Wanda Litigatski

Dear Miss Litigatski:

The formation of a contract requires both the inward concurrence of intention and an outward manifestation of assent. Once the existence of the contract is ensured, the question of any possible breach can then be dealt with.

In anticipation of the impending substantial non-performance on the

part of your current paramour, the doctrine of efficient breach may be applicable. This, of course, depends upon whether or not you possess goods of a fungible nature.

The essential question is whether or not you were made a firm offer by your boyfriend. Fortunately, the common law does not look into the adequacy of consideration in contractual matters.

Many excuses for non-performance do exist; however, time does not allow me to do justice to these.

In closing, I would suggest that you enter into relations with a first year student in order to ensure performance. If perchance any breach does occur in this relationship, specific relief may be obtained as it can easily be shown that substitutes are not available.

Letters

QUESTIONS—OR VARIATIONS ON A THEME

I had the opportunity last week to spend several days working in the Law Library at the University of Ottawa. Apart from the better physical plant, I noticed several marked differences in the atmosphere that simply cannot be ascribed to a difference in facilities.

The most noticeable was the difference in the noise level in the library. At its noisiest the Ottawa library was quieter than the McGill library.

Not once in my five days there did I come across a carrell or a table covered with journals and law reports with the admonishing note: "Please do not remove." Students at U of O seemed able to read a maximum of four or five books at one time and consequently seemed to limit themselves accordingly.

And I was there while students were preparing their moots! I would not have known that students were mooting if I had not seen notices to the effect that factums were due by so-and-so by such-and-such a date.

Yet nowhere could I see any signs of hoarding of books, revues or journals. Nor any sign of the incipient paranoia that grips McGill twice yearly.

Ottawa students do not moot all at the same time. The moots are spaced out at regular intervals throughout the year. The strain on the facilities is lessened and the collective psychosis that grips McGill students during moots and that drastically increases one's own paranoia is, not very surprisingly, absent.

One witnesses a completely different phenomenon. The milieu of the mooting student remains the same; there is no increase in the collective tension. The continuing normalcy of life around the mooter helps her/him keep a better perspective on things and decreases the pressure that he feels as a different dynamic is created.

A priori, there does not seem to be any reason why such a system could not be adopted at McGill. Anything which contributes to improving the quality of students' lives without adversely affecting academic excellence should be pursued actively.

Quare: why must students at McGill moot twice while elsewhere law students only moot once?

Answers to the above question must be postmarked before March 1, 1982 to qualify for one of the prizes mentioned below. Marks will be awarded for neatness.

First prize: 1 (one) Denby Super Chauvinistic Mark IV Sedan from the Lord Denby Car Corporation, Brampton, England.

Second prize: 2 (two) Denby Super Chauvinistic Mark IV Sedans from the Lord Denby Car Corporation Brampton, England.

HENRI R. PALLARD LLB 1

LUS PRESIDENT KEPT OUT

Prof. S.O. Freedman
Vice-Principal (Academic)
F. Cyril James Bldg.
McGill University

Dear Vice-Principle Freedman:

I am writing with regard to a meeting held January 12, 1982 of the Academic Policy and Planning Committee subcommittee on New and Revised Courses and Programs. Ann Soden, a McGill Law student and I were denied admission to observe the meeting by Prof. Cartwright.

This exclusion is contrary to Senate regulations as outlined in the Senate Handbook, Parts XXIII and III. Closed meetings require extraordinary circumstances, a specific resolution and public justification. Meetings are to be held in locations that can accommodate a reasonable number of spectators.

Inasmuch as there were matters discussed at that meeting which were of great concern to my constituents, this exclusion effec-

tively prevent me from properly discharging my duties. This is unacceptable.

I am anxious to learn what action will be taken to ensure that this problem does not arise again.

Sincerely,
Campbell Stuart

cc. Ass. Vice-Principle
Cartwright, Dean J.E.C. Brierly
Liz Norman, Pres. S.S.
Liz Ulin, V.P. University Affairs,
Student's Society

WULFSTAN RETALIATES

I admit, Sir, that I was taken aback by the bosh which appeared in your last number over the names Moray and Bruce. Such Pictish propaganda might impress some, but I have faith that few others will pay much attention. Be that as it may, there are a few points to be clarified.

Moray's spelling excuse for bigotry is bad enough, but Bruce's lapses gail the most. For example, the Genghis Klan were not Scots. They were Cornish. Brigands all, they marched westward not in search of markets for yurts, nor on assignment for the National Geographic Society. As any Devon sportsman knows, they were on a rampage because their home team—the Pirates of Penzance—had lost the Cup Final to Manchester United.

Bruce mentioned some "seminal day" in 1603, with obvious reverence, and this is understandable. On that day the Stuarts left the rain-soaked fetid streets of Edinburgh for the palace at Westminster, exhibiting uncommon good sense. Edinburgh, though quaint and pleasant to visit, is no place to live. Good King James realized this and moved. In what other city do people still listen for the noon-day gun because they are too tight-fisted to support the Swiss watch industry and too tight to tell the time?

It was no surprise to anyone familiar with metre to note that Robert Burns Day was not celebrated

openly. Why have festivities to honour such a dabbler in doggerel? Is it not strange that Scottish reading habits run to the likes of books on dead felines when a lion is the symbol of that unhappy land?

Scotland has long been the beneficiary of English generosity. Holy men from Lindesfarne put Scottish paganism to rest, or so they thought. But alas, the Scots have been stubborn and for centuries have refused prayer books, Melton Mowbray and Marmite, preferring Covenants, hags and Finan Haddie. Is it to Anglo-Saxonry's shame that the students at the Pipe School in Edinburgh Castle drink excessively and then skirl such tunes as "High on a Hill"? Did Bruce mention—even in passing—that Shetland wool sweaters are made with the wool of many an English ewe?

He failed to elaborate on other products of Scottish culture; no wonder. The greatest example of neo-classical Scots Architecture is known as "Edinburgh's Disgrace". As for Scots philosophy, one is forced to admit that it does exist. It is best summed up in the traditional ballad "Bruce, Will Ye No Come Back Again?".

WULFSTAN

"A" team gets "A+"

BY NEIL COBB

The men's "A" hockey team, still exhausted from their grueling 10km Frostbite Marathon, travelled to Quebec City on the 29th of January, to participate in the annual Quebec Inter-Law-Faculty Hockey Tournament. The trip was nothing short of a complete success -- the men in Black and Gold winning all of their games and bringing the silverware back to the hallowed halls of Chancellor Day.

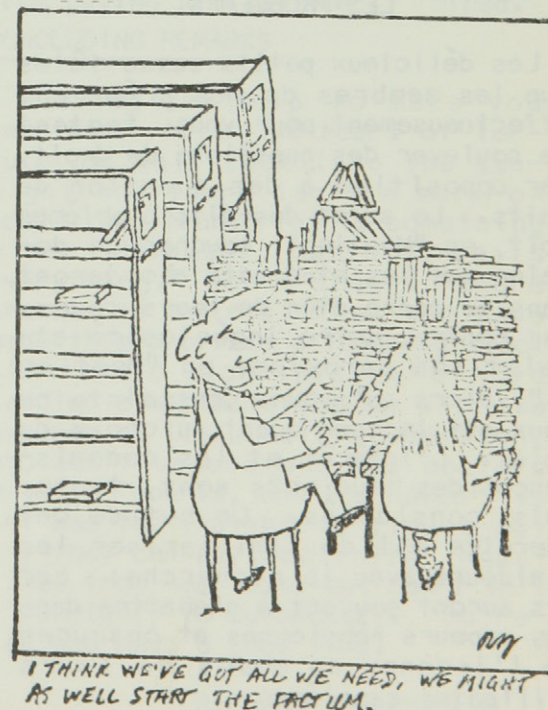
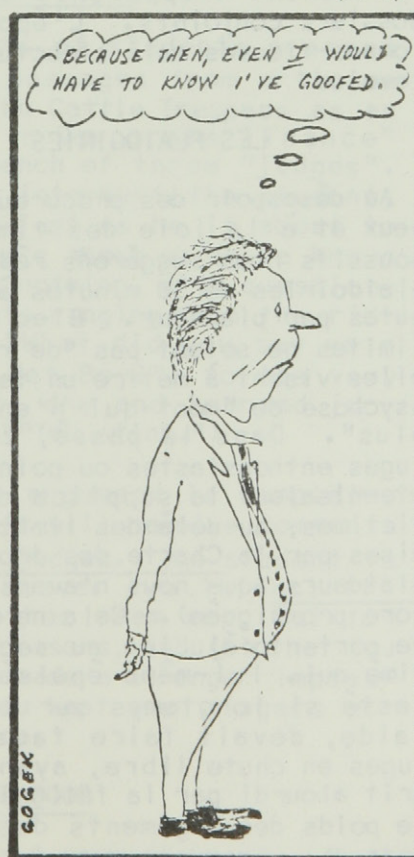
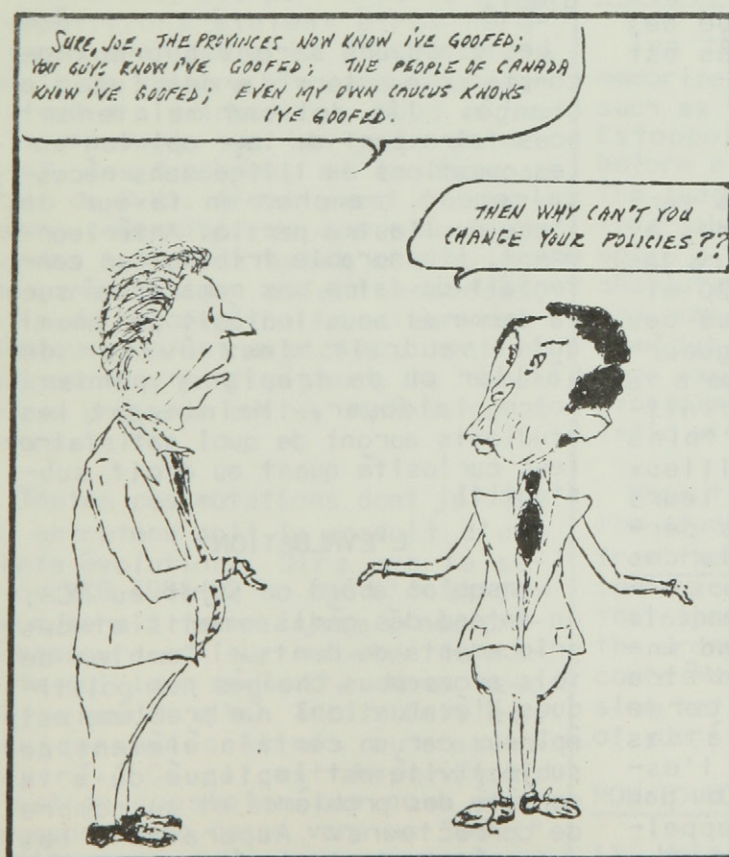
In the tournament opener McGill hammered their cross-town rivals from Université de Montréal 6-1 only to be informed that their tardy arrival from Montréal had cost them the default of the game. With their backs now against the walls -- they would surely have to sweep their next three tournament games to gain a berth in the finals -- our heroes dug in their heels and vowed not to be eliminated without a fight.

Less than an hour after the theft of their first victory, McGill squared off against University of Ottawa. A hat-trick by Wild Bill Tresham and a pair of goals from Senator Beaubien propelled the good guys to a lop-sided 7-2 victory. Our guys were then afforded a half-hour rest before being called to do battle with the host Université de Laval squad, in what was to be the final and most entertaining game of the day. The home team bolted out of the starting gate, taking a 1-0 lead in the first minute of play.

The versatile Dave Ramsay, called upon to don the goalie equipment in this crucial match, was not to be beaten again, however, as he continually stymied the potent Laval attack, enabling the visitors to eke out a 3-1 win. "The Rammer" and his acrobatics were in the spotlight again, later in the evening when his "Darth Vader Sword-Dance" frustrated his team-mates attempts at engaging in "inter-cultural pursuits" with the delectable Québécoises at a trendy, downtown discotèque.

After a restful 3 hour repose at the luxurious Auberge des Cockroach and a taxing 5 mile walking tour of the Old City (courtesy of Pete The Crossing, Quebec Cultural Affairs Minister to be!) the McGill law team completed its trek to the Tournament finals by edging out the boys from U. de Sherbrooke 5-4 on the strength of Senator Beaubien's tally with 27 seconds remaining in regulation time.

The finale pitted nos glorieux against the host Laval squad before a standing room only crowd which would have little to cheer about until the final minute of play. No the home team did not pull the championship out of the fire -- the Good Guys were not even pressed in posting a 3-1 victory. But the crowd went ecstatic nonetheless when Kevin Nearing, who was still smarting from his impersonation of a bob-sled brake at 60 m.p.h. on the ice slide at Chateau Frontenac, somehow managed to miss an empty Laval net from less than ten feet away. Much thanks to "Dead Eye" Nearing whose exploits provided the boys with the needed comic relief for the long ride back to Montréal.



Vers un "moot" meilleur

PAR STEPHAN LEGOUEFF

Ceux d'entre vous qui ont eu le plaisir de voir le film *Alien*, ont certes été surpris de constater l'aisance avec laquelle la terrifiante créature parvenait à s'adapter à son environnement. Elle a su se métamorphoser de mollusque tentaculaire en monstre hideux et invulnérable.

Le Moot Court Board (MCB) lui aussi subit des transformations qui, bien que moins spectaculaire, ne passent pas inaperçues. Ces mutations, loin d'être maléfiques, visent plutôt à améliorer un programme de tribunaux-écoles unique au Québec. En effet, seule notre vénérable Faculté, a "démocratisé" les "moots" en les rendant accessibles à tous et en les imposant à ceux qui ne réalisent pas ce qui est bon pour eux. En fait, la devise "à chacun son moot" devrait être inscrite en lettres d'or sur la majestueuse porte de notre somptueux siège social (près du local 200).

Ces transitions ne se font pas à l'improviste, mais sont le fruit mûr de réflexions longuement cogitées et discutées. Nos politiques s'élaborent lors de discussions internes au MCB, après quoi elles sont soumises à l'approbation du doyen et du "Faculty Adviser". Lors de ces délibérations, guidées par un constant souci d'amélioration, nous tentons d'œuvrer afin que le "moot" soit une expérience des plus enrichissantes.

LES PROBLEMES

Les délicieux petits casse-têtes que les membres du MCB préparent affectueusement pour vous, tentent de soulever des questions de droit, par opposition à des questions de faits. Le sujet des-dits problèmes doit, en "Mooting", toucher un domaine que les étudiants aborderont dans le cadre d'un de leurs cours. Par contre, notre ingéniosité atteint son paroxysme en "Mooting II", alors qu'aucune contrainte ne nous est imposée quant au choix du sujet. L'intérêt et les connaissances des étudiants sont, toutefois, considérés. Le but de cet exercice est de familiariser les plaideurs avec la recherche; car ils auront souvent à s'ébattre dans les vapeurs nébuleuses et obscures de l'inconnu au cours de leurs brillantes carrières.

Pour ceux qui s'étonnent du caractère quelque peu farfelu de nos énigmes, et qui mettent en doute leurs qualités intellectuelles, j'indiquerais que, malgré le fait que nous jouissons d'une grande autonomie lors de leur conception, nous demeurons encadrés par certains membres du corps professoral. Nos problèmes doivent d'ailleurs être approuvés par un professeur, spécialiste en la matière, avant d'être distribués aux étudiants.

La question s'est posée à savoir si nos problèmes devraient s'adapter à un tribunal de première instance, comme c'est le cas à l'Université de Sherbrooke et à l'Université de Montréal, ou demeurer au niveau de la cour d'appel. Nous avons dû opter pour le status quo, car notre vénérable institution ne dispose pas de moyens à la mesure de ses ambitions. Choisir la première alternative aurait certes été une expérience enrichissante et un moyen fascinant de concrétiser nos notions évaporées de droit judiciaire. Hélas, notre délicat superstructure et notre maigre budget rendent cette expérience utopique.

Par contre, dans un souci de rendre nos problèmes plus conformes à la réalité, nous en avons modifié la forme en y incluant certaines pièces de procédure. Ils ont maintenant l'apparence de vrais dossiers conjoints. L'époque des romans-fleuves mals structurés est révolue.

LES PLAIDOIRIES

Au désespoir des procureurs verbeux et à la joie des timides et poussifs nous suggérons réduire les plaidoiries de 30 minutes à 20 minutes par plaideur. Bien que ces limites ne soient pas "de rigueur" elles visent à mettre un terme à la psychose du "moot-qui-n'en-finit-plus". Dans le passé, certains juges enthousiastes ou pointilleux éternisaient le supplice de leurs victimes, au-delà des limites permises par la Charte des droits des plaideurs (que nous n'avons pas encore promulguée). Cela ne manquait de porter préjudice au second intime qui, lui-même épuisé d'être resté si longtemps sur la corde raide, devait faire face à des juges en chute libre, ayant l'esprit alourdi par la fatigue, ou par le poids des arguments des appelants.

LES JUGES

Le tribunal, pour les "moots" de 1ère année, sera maintenant composée de deux étudiants-juges et d'un avocat. Cette audacieuse innovation ne manquera pas de rendre les débats plus intéressants, car il s'est avéré, dans le passé, que les étudiants-juges étaient toujours bien préparés. Incidemment, cela permettra à un plus grand nombre d'étudiants de jouir de cette inestimable et valorisante expérience qu'est celle de juger.

D'autre part, nous avons auparavant éprouvé certaines difficultés à recruter un nombre suffisant de professeurs pour juger les tribunaux-écoles de 2e année. De plus, nous ne parvenions pas à leur donner des problèmes reliés à leur spécialisation.

Il est incompréhensible que certains de nos maîtres, exerçant des spécialités exotiques, se sentent dépaysés lorsqu'on demande de quitter leurs orbites géostationnaires ou de remonter de leurs profondeurs abyssales pour juger un problème de droit de la famille ou de responsabilité civile. Nous avons donc décidé de faire appel à des praticiens lorsque nous aurons une pénurie de professeurs. Il est désormais possible d'avoir un banc composé de deux avocats et un étudiant.

Les plaideurs seront heureux de constater que le rôle des juges a changé. Ils doivent maintenant nous faire part de leur opinion sur les questions en litige sans nécessairement trancher en faveur de l'une ou l'autre partie. Antérieurement, l'honorable tribunal se contentait de faire ses remarques sur la forme et nous indiquait poliment qu'il vaudrait mieux éviter de bâiller ou de trépigner pendant notre plaidoyer. Maintenant les étudiants auront de quoi satisfaire leur curiosité quant au droit substantif!

L'EVALUATION

Lorsqu'on aborde ce sujet au MCB, on entend des gémissements et des grincements de dents. Combien de fois avons-nous changés nos politiques d'évaluation? Ce problème est épineux car un certain élément de subjectivité est impliqué dû à la variété des problèmes et au nombre de correcteurs. Auparavant, les notes étaient ainsi réparties: fail

The mooting blues

The following is not an original piece, but an adaptation of an article written by G. Bock in 1977 at the University of Western Ontario Faculty of Law. The object of the article is to help the first-year student gain a realistic perspective upon the exercise of mooting and to provide some time-tested pointers.

MOOTING

The closest parallel to mooting found in other disciplines is the Ontario first-year medical school "Free Clinic". There, the first-year med student is brought before a "board" (cf. "bench") of consulting physicians, usually the chief surgeons and is handed a Baby That-away. Then he receives his instructions. "This is Mr. X. You are to diagnose his condition, and treat it successfully to the satisfaction of this board. You will have one week to research the problem, and you may use any skills or procedure

/pass/high pass. Les critiques exprimées par les étudiants nous ont incitées à adopter le système classique, que nous connaissons dans nos autres cours, et dont nous avons renouvelé la brutale expérience il y a peine 3 semaines. Nous souhaitons que ce système aura mieux refléter la performance des étudiants. Néanmoins, les discussions se poursuivent...

LES MOOTS COMPETITIFS

Autrefois, les participants à ces compétitions étaient êtres hérétiques dont seule la fierté et le désir de vaincre l'ennemi les poussaient à s'y inscrire. Nous n'insisterons pas sur les prix en argent, les trophées, et la décoration du C.V.. C'est avec une farouche détermination que nous nous sommes battus et avons obtenu que des crédits leur soient accordés, afin de reconnaître la valeur académiques de cet exercice, tout en donnant aux participants le temps de se préparer en les libérant d'un cours.

Toutes ces mutations dont je vous ai entretenu soit le produit d'une lente évolution. Dire que le senior MCB 1981-82 en est l'instigateur serait faire injure à nos prédécesseurs et leur enlever le mérite qui leur revient. Nous nous réjouissons d'en avoir initiées quelques unes et mis autres en oeuvre. Ce qui est important, c'est de constater que nous progressons sans cesse vers un "moot" meilleur.

with which you are familiar". This means the student may either use a tongue depressor or half an aspirin, or both. The penalty for failure is expulsion and public ridicule.

Inevitably the student will ask, "What seems to be wrong with Mr X?" "What? Are you blind, man?" roars the chief surgeon. "His metabolic rate is zero, he has only a vestigial female involution in place of genitals and his hair is painted on! He can't close his eyes without lying down!" With only the hint that Mr. X does not have a tropical disease, the student must return in one week and perform the required procedure while the board looks on hooting criticism and suggestions.

While this ordeal is mild and rational compared to moot court, it is outlined here to illustrate that the grass isn't much greener on the other side.

WHY HAVE MOOTS AT ALL?

Never ask such a question in the real world. You have no business asking why we should have anything at all. One lawyer once questioned the relevance of the Perpetuity Rule and was instantly disbarred. Any profession that can be replaced by a word processing machine and two high school graduates is going to be sensitive. So watch it.

FORMAT OF THE MOOT

Two teams of students present memorized passages from articles such as "The Cattle Trespass as an Estoppel in Corporate Finance" before a bench of three "judges". The judges interrupt the student, invariably just as he is about to spike a topic about which he knows absolutely nothing, with questions and comments ranging from the ridiculous ("What did you say your name was, Fat Boy?") to the very pinnacle of dry and learned juristic wit ("You stink.")

When the argument is complete, the students will receive comments from their judges. The student is led to discover two things: (1) that the other team won, but for the wrong reasons, and (2) that you could have made a stronger impression had you kept your fingers out of your face.

HOW TO MOOT GOOD

1) Write out your argument. Read

it to the Court. Otherwise, memory will fail you. Do not make eye-contact with the bench. They will be making faces and taking off their clothes to further befuddle you.

2) If the Court asks a question, ignore it. That will show them your tenacity. They are only trying to make you lose your place on the page.

3) Research everything. Stay up until three. Remember this moot will count for 1/2 of 1/15 of your final grade, so don't blow it.

4) Spend money and photocopy everything. Do not neglect the B.L.R.'s (Bechuanland Law Reports). Read long passages from each of these cases to the bench. Your bench is composed of one law professor and two upper year students, and they will be truly impressed with you and your work.

5) Brown. If the bench says anything, no matter what rejoin with "Excellent point, M'lord. I should have seen this before. Pardon me." This shows respect.

6) Don't show too much respect. To the first question from the bench, reply with: "Are you talking to me Yortuck?"

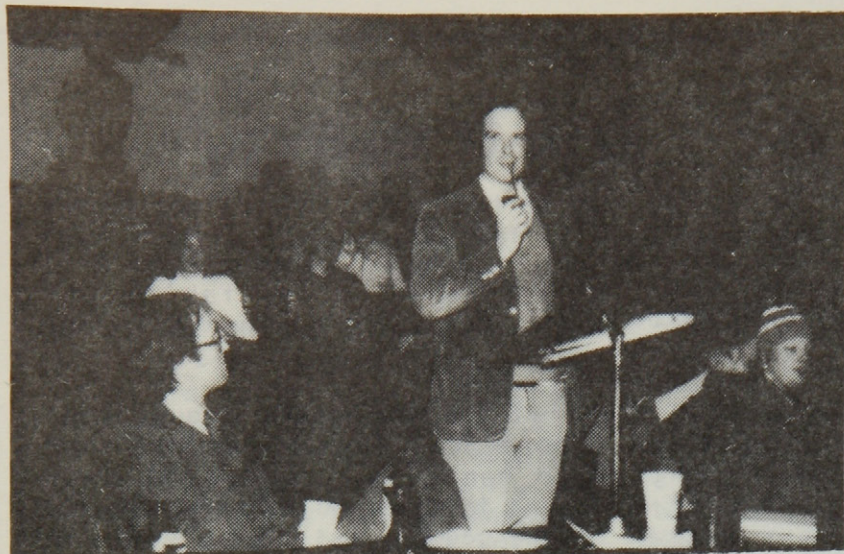
7) Do not pun. Remarks such as "MacKay broke off in the ignition lock" and "Is my McVoice too McLeod?" are right out.

8) Real life tactic: upstage your adversary when he is making his argument. This will prevent the bench from paying him any heed. Bleed.

CONCLUDING REMARKS

Mooting can help to make you fearless. After two hours of torture you walk back into the sunlight and there isn't a mark on you. Your transcript is something else. Remember, performance is everything. Don't sneer. There are men in their fifties who have made this province a laughing stock with their sign laws, who have saddled a moribund economy with the expense of linguistic conversion, who don't understand why doctors move to Phoenix, and who haven't as yet had the insight to figure out why they can buy declining industries from Americans but can't sell sovereignty to Quebeckers. So relax and have a good time.

RICHARD KURLAND LLB II



(Left) Counsel for the respondent, Bridge, watches as co-counsel Baker struggles to find an opting-out clause in his agreement to participate in the Student-Faculty Moot. (Right) The Bench -- Wade, Chief Judge Gold and MacLaren -- spellbound at the cogency and sophistication of argument.

Student – Faculty Moot:

Battle of the Bawdy

UNITED HOTEL WORKERS UNION

(Plaintiff) Appellant

and

LA REGIE DE LA PROSTITUTION DE QUEBEC

(Defendant) Respondent

Labour Law- Prostitution- Whether prostitutes under the Régie are independent contractors- Prostitutes are immovable by reason of objects to which they are attached- Whether this is a slippery issue- Whether the issue is where the clients came from or whether they came- Defendants may be ejaculated from the court- Various and sundry articles of the Silly Code.

1982 Feb. 2

Chief Justice Allan Gold
Terrence "Rocky" Wade, J.
Tanis "What's wrong with your eyes" MacLaren,
Lordess.

Facts: No one is really sure, but it had something to do with the Régie, which regulates prostitution in Quebec, since the National Assembly "recognizes this nefarious trade in human weakness". Chamberpersons of the Plaintiff who have been dismissed want to be transferred to the Régie. Throughout the pleadings it became clear to the court that a certain "Susie Creamcheese" had been particularly involved, and Counsel for the Plaintiff insisted that all her parts were movable, and that Art. 381 of the Silly Code cannot apply.

The noble entrance of the Chief Justice, with the two puisne judges on leash, was preceded by the rowdy antics of the counsel for the Plaintiff (Doug and Bob McKenzie, doing terrible imitations of Neil Cobb and John Webster), who informed the audience that all judges are hosers ("Toti jures Hoseres sunt" Ed. note).

Before the issues themselves were addressed, a number of preliminary objections were raised. Counsel for the Appellant wanted the bench disqualified for having tried to steal the Gatineau River, and the Bench wanted to know why Counsel was attired inappropriately. With the utmost indignation, Counsel informed the Bench that their charming green jackets and plaid pants were on loan from Rod MacDonald. Objection was overruled by Counsel with the well-known maxim "Take off, eh". Proceedings commenced after Counsel for the Appellant gave everyone beer, Counsel also alleged that the Counsel for the Respondent were unable to read the factum since it was "in civil law". Counsel for the respondent (Michael "why-do-you-talk-so-funny" Bridge, and Blaine "Hey-I'm-taking-this-seriously" Baker) did not do much in the way of responding.

Counsel for the Appellant's argument was based on whether the famous Suzie Creamcheese was immovable by reason of the object to which she was attached, and there-

fore her portions could not have been seized. The learned Chief Justice asked whether the aforementioned portions were tools of the trade. Wade, J. wanted show and tell.

MacLaren, J. wanted to know what "that Code" was, and refused to accept the Crépeaunian Code. Counsel wanted to know "what your Lordship was doing here".

Counsel for the Respondent objected to the fact that there had been no joinder of issue and wanted to win by default, but the learned Chief Justice pointed out that in the case of counsel for the Appellant, no representation was probably better than any at all. (N.B. It is interesting to note that Counsel for the Respondent could have easily dealt with the issue by pointing out that "joinder of issue" is forbidden in the Criminal Code under "Incest", s. 150. Ed. note). Me. Bridge barely distinguished the landmark case of "Snow White and the Seven Dwarfs" in order to show that the prostitutes were independent contractors, but in a moment of noteworthy brilliance, MacLaren, J. pointed out that it doesn't matter whether they contract or not, since they should be doing the opposite. Me. Bridge referred to a well-known anonymous author, in order to substantiate his reputation of never getting to the point, and then proceeded to harangue the Bench, who wanted to hear his colleague instead.



Cobb, Webster (Bob and Doug?) make refined entrance while audience strains to avoid their breath.

When Me. Baker alleged that the operations of the Régie de la prostitution had lowered the National Debt, MacLaren, J. wanted to know whether that meant Québec was a nation. Baker said "I'm prepared to let it lay". This was a strategic mistake, since Counsel for the appellant immediately pointed out that there's a first time for everything. (N.B. Baker should probably have mentioned that in lowering the National Debt, the prostitutes had discharged their burden of proof. Ed. note).

There was some discussion as to whether it was relevant where the clients of the prostitutes had come from, since the hiring of seamen (sic) is federally regulated. In addition, the question of whether the prostitutes were independent contractors had had to be reformulated, since the primary concern of the Court was what the clients had contracted. All of the discussion got Wade, J. a little hot under the collar, so he took it off. As he did his pants. Underneath the innocuous sheepskin jacket lurked red bikinis and padded garters (or, at least, it looked that way from the audience. On the other hand it may have been wishful thinking. Ed. note).

Counsel for the Appellant addressed their Hoserhips with the issue of whether an actual meeting of the minds had occurred, but the Bench did not seem to judicially recognize the relevance of minds.

There was also some discussion as to whether the citizens of Winnipeg are capable of valid consent, under s. 984 of the Crépéan Code.

On the lack of any merit whatsoever, but, rather, on sartorial grounds, the action was allowed. Costs were awarded to the Bench.

COURT REPORTER: PEARL ELIADIS

Announcements

FACULTY COUNCIL MEETS TODAY

The two-credit/three-credit controversy over the proposed Financing Business Transactions course will be resolved at today's meeting. The Curriculum Committee's proposed changes to the National Program should finally be dealt with as well. 4 pm. in Room 204. The meeting is open.

LAW BANQUET

Tickets for the annual Law banquet are now on sale. This year, the Banquet will be held at the M.A.A.A. Club (2070 Peel).

Date: March 13th, 1982

Guest Speaker: Judge Allan Gold

Price: \$15/ticket

First week priority will be given to graduate students.

VALENTINE'S DAY

Don't forget to put your Valentine cards in the box (at the Porter's desk)! The cards will be distributed Monday, February 15th.

WINE AND CHEESE

A Wine and Cheese Party will be held February 18th in the Common Room from 4 to 7 pm.

QUID NOVI ESSAY CONTEST

As announced last week, Quid Novi is holding an essay contest on the topic "What makes a Law School Great?". Submissions, in any vein, are to be no more than 2000 words (a limit strictly enforced by an eager team of word counters) and are due March 5, the Friday after realising week, in the Quid Novi office in the basement beside the LUS office (no, it's not the janitor's closet). Tremendous prizes, to be announced, will be awarded. At least the three best submissions will be published and judging will be both skilful and fair.

EASTERN PROVINCIAL AIRLINES AWARDS PRIZE

Members of Professor Jean Louis Magdelenat's class in Air and Space Law had a pleasant compensation for good work on last term's exam. The class was asked to analyse the notices, warnings, etc. on the back of an Eastern Provincial Airlines ticket. Three students, Andrea Friedman, Deborah Cere, and Stephen Hamilton, received A's for their analysis, which Mr. H.R. Steele President of Eastern Provincial, felt deserved special recognition. And so all three have been awarded a flight anywhere on the Eastern Provincial system. At some point this summer, you'll be able to find them in the friendly skies of the Maritimes.

EXAM RESULTS STUDY

The L.U.S. in conjunction with the Faculty is presently organizing a computer study of examination results. It is a subject blessed with myriad interesting facets.

During the next two weeks we will be compiling a list of questions. Richard Kurland will be designing and running the program. The L.U.S. itself is interested in an analysis of grades by course similar to those done in other Law Faculties but in a more readily accessible "histogram" form. We will be more than happy to expand the field of inquiry to accommodate any reasonable requests for data.

It is our feeling that knowledge of general trends in evaluation and performance is useful to anyone interested in the evolution of policy in the Faculty. To those charged with particular areas of responsibility this opportunity may be of special interest.

If you have any questions you would like answered please communicate with either me or Richard Kurland by Friday, February 19.

A final list of questions will subsequently be presented for approval to Dean Brierley in compliance with University security regulations.

CAMPBELL STUART

Queen's

(Continued from page 1)

who gave valuable chalk talks as to the men's team which cheered on in full force through the play-offs.

The men's team was another story. After the first day the squad stood in the middle of the five team division with a victory over Toronto 3-0 and a loss to Western 5-3. So, on Thursday night the men did a lot of thinking and drinking to figure out that they had to win both Friday games. The first game was against Queens who were 0-2. With the score at 1 with a minute left to play, Queen's was given a penalty shot on a disputed play. Jean Castonguay made the key save and then with 6 seconds to play Dave "Rammer" Ramsey, just up from the minors, connected on a two on one break to give McGill the victory. Then it was on to UBC where a win would put the men into the play-offs. As Al Simeson later admitted in the dressing room, "We were just hosed". Final score UBC 8 - McGill 0.

In squash the team put on a respectable performance to win one and lose two. The highlight here was Celia Rhea's fine play which enabled her to win two of her matches.

The word from the basketball court was, again, that despite the play of Max and Rob the team won one and lost two. Competition was stiff and the McGill team had their hands full and yet still turned in a fine performance.

Queen's was a courteous host with parties being thrown everywhere. McGill was in fine shape for the social aspect of the tourney which is evidenced by the fact that they were the only school that was not represented in the pub crawl as they were recovering from an afternoon hang-over. You would assume that with so many future lawyers in one hotel the political dialogue was hot and heavy. And McGill again was at the center of the storm when Alberta which roomed across the hall, tried to tell our resident nationalists Messrs. Bonhomme and Latraverse how it should be. Needless to say this did not go over very well. But this interaction is basically what the whole tourney is about. It was the meeting of different viewpoints, different people, different cultures, all from within Canada, that made the whole weekend so enjoyable for all those who were there.

RE: THE SCARLET KEY AWARD

Open to All Students

This is to inform you that we are now accepting nominations for the Scarlet Key "Award". The "Award" is open to all students on campus. Tradition

The Scarlet Key Society was established in 1921. Since 1970 the Scarlet Key Society and the Red Wing Society have been combined to offer the Scarlet Key Award to all students.

Duties

The Scarlet key "Award" recipients are requested to assist at the McGill Convocation ceremonies.

Criteria for Selection

Students who have attended McGill for at least one year and who are in good standing in their faculty are eligible for this award. Selection will be based on quality of distinction in some combination of campus activities and/or leadership in extra curricular program.

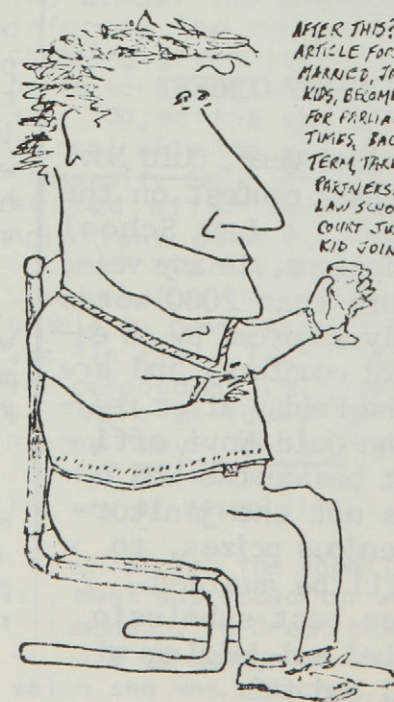
Nominations

You can nominate as many students as you may deem worthy of it. Nominations will be screened and considered for interviews by a selection committee represented by the Administration (1), The Graduates' Society (1), the Academic Staff (1), and present student award holders (4). Those selected will be publicly announced.

Deadline for Nominations

All nominations must be received before February 19, 1982 to the undersigned. Information on student nominees will assist us in a fair selection of award winners and application forms are attached. Additional forms are available at the Information Desk in the Student's Union.

Adrienne Jones
Marcel Mongeon
Co-ordinators
Scarlet Key Committee



AFTER THIS? WELL, BARSCHOLL, ARTICLE FOR DAD'S FIRM, GET MARRIED, JOIN THE FIRM, HAVE KIDS, BECOME JUNIOR PARTNER, RUN FOR PARLIAMENT A COUPLE OF TIMES, BACK-BENCHER FOR A TERM, TAKE DAD'S SENIOR PARTNERSHIP, SEND KID TO LAW SCHOOL, APPOINTED HIGH COURT JUDGE BY PATRONAGE, KID JOINS OLD FIRM. DIE, HOW ABOUT YOU?

Panel on Third World as aid cut

BY DANNY GOGOK

Recently, the World Bank has agreed on a series of measures that will substantially reduce the aid it gives to the world's poorest countries. The World Bank has said that its International Development Association affiliate will reduce its total outlays this year from a previously planned \$4.1 billion (U.S.) to only \$2.6 billion.

This reduction in IDA credit, on which third world countries and particularly those already near economic collapse depend more and more, has been made necessary by recent decisions of the Reagan administration to reduce assistance to the bank. Some of Reagan's political strategies have been opposed to sending aid to countries which are non-supporters of U.S. foreign policy.

Concomitant with these cuts in north-south aid, the international climate has experienced a dramatic chilling in east-west relations.

The panel discussion on February 18, the second in a two-part series organized by the McGill International Law Society, will focus on the possibility of avoiding world conflict by diverting international attention away from east-west tension and toward north-south solutions. Nevertheless, the present drift in international relations plainly suggests that this strategy is becoming more and more remote as a viable alternative to the cold war rhetoric of the current day.

Whether this be the case, and whether this alternative strategy is likely to be addressed on February 18 at 7:30 p.m.

Participating in this panel will be Norman Hicks from the World Bank, Prof. Robert West from the Fletcher School of International Law and Diplomacy, and M. Roy of the Canadian International Development Agency.